

FOR UTILITY/DESIGN
CIP/PCT NATIONAL/PLANT
ORIGINAL/SUBSTITUTE/SUPPLEMENTAL
DECLARATIONS

RULE 63 (37 C.F.R. 1.63)
DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CUSHMAN
FORM

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the **INVENTION ENTITLED ASYMMETRIC HYBRID ACCESS SYSTEM AND METHOD**

the specification of which (CHECK applicable BOX(ES))

→ is attached hereto.

X → was filed on April 21, 1995 as U.S. Application No. 08/426,920 (now U.S. Pat. 5,586,121)
BOX(ES) was filed as PCT International Application No. PCT/
→ and (if applicable to U.S. or PCT application) was amended on PCT/US/96/05453 on April 19, 1996
July 29, 1996 (US) August 12, 1996 (PCT)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56. I hereby claim foreign priority benefits under 35 U.S.C. 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate filed by me or my assignee disclosing the subject matter claimed in this application and having a filing date (1) before that of the application on which priority is claimed, or (2) if no priority claimed, before the filing date of this application:

PRIOR FOREIGN APPLICATION(S)		Date first Laid-open or Published	Date Patented or Granted	Priority Claimed
Number	Country	Day/MONTH/Year Filed		Yes <input type="checkbox"/> No <input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

I hereby claim domestic priority benefit under 35 U.S.C. 119/120/365 of the indicated United States applications listed below and PCT international applications listed above or below and, if this is a continuation-in-part (CIP) application, insofar as the subject matter disclosed and claimed in this application is in addition to that disclosed in such prior applications, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56 which became available between the filing date of each such prior application and the national or PCT international filing date of this application:

PRIOR U.S. PROVISIONAL, NONPROVISIONAL AND/OR PCT APPLICATION(S)		Status	Priority Claimed
Application No. (series code/serial no.)	Day/MONTH/Year Filed	pending, abandoned, patented	Yes <input type="checkbox"/> No <input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

And I hereby appoint Lawrence Harbin, Reg. No. 27644, Farkas & Manelli, PLLC, 1233 20th Street, NW, Suite 700, Washington, DC 20036 whose telephone number (202) 778-1139 (to whom all communications are to be directed to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and with the resulting patent.

(1) INVENTOR'S SIGNATURE: *Eduardo J. Moura*

Date: Feb 4, 1997

First	J.	Middle Initial	Family Name
Residence	San Jose	CA	USA
City	State/Foreign Country	Country of Citizenship	
Post Office Address	3509 Mt. Davidson Court, San Jose, CA		
(include Zip Code)	95124		

(2) INVENTOR'S SIGNATURE: *Jan M. Gronski*

Date: 2/26/97

First	Maksymilian	Middle Initial	Family Name
Residence	Palo Alto	CA	USA
City	State/Foreign Country	Country of Citizenship	
Post Office Address	705 Newell Road, Palo Alto, CA		
(include Zip Code)	94303		

(FOR ADDITIONAL INVENTORS, check box to attach CDC 116-2 same information for each re signature, name, date, citizenship, residence and address.)

2/26/97
J. Moura
Eduardo J. Moura
Farkas & Manelli, PLLC
1233 20th Street, NW, Suite 700
Washington, DC 20036
202-778-1139

DECLARATION AND POWER OF ATTORNEY

(continued)

ADDITIONAL INVENTORS

(3) INVENTOR'S SIGNATURE:

First	Middle Initial	Family Name
Robert	L.	PACKER
Residence	Los Gatos	CA
City	State/Foreign Country	
Post Office Address	16095 Redwood Lodge Road, Los Gatos, CA	
(include Zip Code)	95030	

Date:

3/19/97

(4) INVENTOR'S SIGNATURE:

First	Middle Initial	Family Name
Robert	A.	LUXENBERG
Residence	Woodside	CA
City	State/Foreign Country	
Post Office Address	156 Alta Vista Road, Woodside, CA	
(include Zip Code)	94062	

Date:

3/7/97

(5) INVENTOR'S SIGNATURE:

First	Middle Initial	Family Name
Frederick		ENNS
Residence	Menlo Park	CA
City	State/Foreign Country	
Post Office Address	545 Hobart St., Menlo Park, CA	
(include Zip Code)	94025	

Date:

2/26/97

(6) INVENTOR'S SIGNATURE:

First	Middle Initial	Family Name
Residence		
City	State/Foreign Country	
Post Office Address		
(include Zip Code)		

Date:

(7) INVENTOR'S SIGNATURE:

First	Middle Initial	Family Name
Residence		
City	State/Foreign Country	
Post Office Address		
(include Zip Code)		

Date:

(8) INVENTOR'S SIGNATURE:

First	Middle Initial	Family Name
Residence		
City	State/Foreign Country	
Post Office Address		
(include Zip Code)		

Date:

(9) INVENTOR'S SIGNATURE:

First	Middle Initial	Family Name
Residence		
City	State/Foreign Country	
Post Office Address		
(include Zip Code)		

SUPPLEMENTAL DECLARATION

PATENT
APPLICATION

SOLE/JOINT

As a below named inventor, I hereby declare: THAT I verily believe I am the original, first and sole (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention described and claimed in United States Application No. 08/426,920, filed on April 21, 1995 and entitled:

ASYMMETRIC HYBRID ACCESS SYSTEM AND METHOD (now U.S. Patent 5,586,121)

that the subject matter of claim(s) Nos. 1-61 of U.S. Patent 5,586,121
 one) [] per Amendment filed _____

box only) [] as allowed _____

was part of my or our invention and was invented before the filing of the original application, above identified, and of its parent application(s) (if this is a continuing application thereof) for such invention; that I have reviewed and understand the contents of the specification, including (to the best of my ability) the claim(s), as above amended/allowed; that I acknowledged my duty to disclose all information known to me to be material to patentability of this application (including, if this is a CIP, in so far as the subject matter disclosed and claimed in this application is in addition to that disclosed in said parent application(s), my duty to disclose all information known to me to be material to patentability which became available between the filing date of said parent application(s) and the national or international filing date of this application) in accordance with 37 C.F.R. 1.56.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

(1) Inventor's Signature Eduardo J. Moura Date Feb 4, 1997

Inventor's Name(typed) Eduardo J. MOURA
First Middle Initial Family Name

(2) Inventor's Signature Jan P. Gronski Date 2/26/97

Inventor's Name(typed) Jan M. GRONSKI
First Middle Initial Family Name

(3) Inventor's Signature Robert L. Packer Date 3/19/97

Inventor's Name(typed) Robert L. PACKER
First Middle Initial Family Name

(4) Inventor's Signature Frederick Enns Date 2/26/97

Inventor's Name(typed) Frederick ENNS
First Middle Initial Family Name

(5) Inventor's Signature Robert A. Luxenberg Date 3/7/97

Inventor's Name(typed) Robert A. LUXENBERG
First Middle Initial Family Name

Rule 56(a) & (b) = 37 C.F.R. 1.56(a) & (b)
PATENT AND TRADEMARK CASES - RULES OF PRACTICE
DUTY OF DISCLOSURE

- (a) ...Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the [Patent and Trademark] Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability...
(b) information is material to patentability when it is not cumulative and (1) It also establishes by itself, or in combination with other information, a prima facie case of unpatentability of a claim or (2) refers, or is inconsistent with, a position the applicant takes in: (i) Opposing an argument of unpatentability relied on by the Office, or (ii) Asserting an argument of patentability

PATENT LAWS 35 U.S.C.

§102. Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless--

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months* before the filing of the application in the United States, or
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

§103. Condition for patentability; non-obvious subject matter

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made. Subject matter developed by another person, which qualified as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person

* Six months for Design Applications (35 U.S.C. 172).